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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,618	06/19/2001	Richard L. Spagna	SOM920010003US1	5040
23334	7590	03/08/2005	EXAMINER	
FLEIT, KAIN, GIBBONS, GUTMAN, BONGINI & BIANCO P.L. ONE BOCA COMMERCE CENTER 551 NORTHWEST 77TH STREET, SUITE 111 BOCA RATON, FL 33487			ABRISHAMKAR, KAVEH	
		ART UNIT		PAPER NUMBER
		2131		
DATE MAILED: 03/08/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/884,618	SPAGNA ET AL.
	Examiner Kaveh Abrishamkar	Art Unit 2131

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 19 June 2001.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-16 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) \_\_\_\_\_ is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) 1-16 are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-4, and 10-16 are drawn to a method of accessing a protected (encrypted) file from memory, classified in class 713, subclass 193 i.e. Data processing protection using cryptography: wherein subject matter further comprises cryptography being used to protect stored data.
  - II. Claims 5-9 are drawn to a method of storing and creating a database of digital content, classified in class 707, subclass 104.1 i.e. Application of data base or data structure for multimedia, image, distributed: wherein subject matter further comprises using a database to store digital content in a database.
2. Inventions I and II are related as subcombinations disclosed as useable together in a single combination. The subcombinations are distinct from each other if they are shown separately useable. In the instant case, invention I has a separate utility such as a method of accessing protected (encrypted) data files from memory, classified in a different Class/Subclass. Invention II has a separate utility such as method of creating data structures and a database to store the digital content, classified in a different Class/Subclass. See MPEP 806.05(d).

3. The inventions are distinct from the other, because of the following reasons:
  - (a) These inventions have acquired a separate status in the art as shown by their different classifications.
  - (b) The search required for each Group is different and not co-extensive for examination purposes.

For example, the searches for the two inventions would be not be co-extensive because these Groups would require different searches on PTO's classification class and subclass as follows:

The Group I search (1-4, and 10-16) would require use of search class 713, subclass 193 (not required for the invention II).

The Group II search (claims 5-9) would require use of search class 707, subclass 104.1 (not required for invention I).

For the reasons given above restriction for examination purposes as indicated is proper.

4. Applicant is advised that the reply to this requirement in order to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CRF 1.48 (b) if one

or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48 (b) and by the fee required under 37 CFR 1.17 (h). A telephone call was made to attorney Jon Gibbons, on 03/01/2005 to request an oral election to the above restriction, but did not result in an election being made.

***Conclusion***

A shortened statutory period for reply is set to expire THIRTY DAYS from the mailing date of this communication. Failure to respond within the period of response will cause the application to become abandoned (35 U.S.C. Sect. 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(A).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kaveh Abrishamkar whose telephone number is 703-305-8892. The examiner can normally be reached on Monday thru Friday 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 703-305-9648. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KA  
03/03/2005

*Gilbert*   
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